IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.266 OF 2007

Kallappa Araba Kattigar ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri H.S.Venegavkar, adv. for the Applicant.
Shri Y.S.SHinde, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 5th March, 2007.

P.C.:

1. Heard Mr.Venegavkar, the learned counsel for the applicant and Mr.Shinde, the learned APP for the State.

2. The applicant seeks to be released on bail in crime no.92 of 2006 registered at Gadhinglaj police station for the offences punishable under Section 302 of the I.P.C.

3. The prosecution case, in brief, is that the deceased Piraji and his son Maruti were returning home with the bundle of grass on the head of Piraji. At that time, the present applicant, who is real uncle of the deceased Piraji came from behind with a sickle and assaulted Piraji on the ground that he had cut grass from the common boundary of the land about which dispute

was going on between the parties for a long time. After the first blow with sickle, bundle of grass on his head fell down and he tried to run away but the present applicant chased him and gave him number of blows with sickle. Due to fear, Maruti ran away and by the time, he reached home, his uncle Parshuram also came there. Maruti informed his mother as well as Parshuram about the incident. They all went to the spot and found dead body of the Piraji with number of injuries. Report was lodged by Parshuram on the same day and the offence came to be registered.

4. The learned counsel for the applicant contended that the applicant had also suffered injuries. As per the medical certificate, which indicates that the applicant might have been assaulted by the deceased. The applicant is an old man, who is aged about 66 years while the deceased was a young person aged about 38 years. There is no independent eye witness and, therefore, the learned counsel pleads that the applicant may be granted bail.

5. Maruti is the only eye witness of the incident. Blood stained clothes of the accused were recovered. Sickle was found on the spot. P.M.Report of the deceased reveals that he had suffered as many as 15

incised wounds on different parts of the body resulting in severe haemorrhage and that the present applicant had also suffered about two injuries on his person. On the basis of the said two injuries, it can not be inferred at this stage that the present applicant was acting in his defence. As per the F.I.R., the present applicant is very angry and short tempered person and the fact that because of cutting grass from the restricted boundary, the present applicant assaulted his real nephew with sickle and caused his death shows his character. If he is released on bail, life of the only eye witness Maruti may be endangered. In such circumstances, merely because the accused applicant is the old person, bail can not be granted.

6. Application stands rejected.

(J.H.Bhatia,J.)